IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

No. 5:08-CV-586-FL

ERIC M. MCMILLIAN,	
Plaintiff,))
v.	MEMORANDUM & RECOMMENDATION
INTERGRAL RESOURCES, CHRIS STAUNTON, LAWERANCE FITCH, and KEN SPENCER)))
Defendants.))

This matter is before the Court on Plaintiff Eric M. McMillian's <u>pro se</u> application to proceed <u>in forma pauperis</u> and for frivolity review. Plaintiff has asserted a sexual discrimination and harassment claim against Defendants pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. On December 8, 2008, the court entered an order directing plaintiff to file with the court a copy of the right to sue letter that he was issued by the Equal Employment Opportunity Commission regarding Defendant's alleged discriminatory conduct, because no such letter had been attached to Defendant's complaint. Plaintiff was given 15 days from the December 8, 2008 order in which to particularize his complaint. Plaintiff failed to follow the court's order. Accordingly, the court recommends that Plaintiff's complaint be dismissed as frivolous.

The Clerk shall send copies of this Memorandum and Recommendation to counsel for the respective parties, who have ten (10) days from the date of receipt to file written objections. Failure to file timely written objections shall bar an aggrieved party from

receiving a de novo review by the District Court on an issue covered in the Memorandum and, except upon grounds of plain error, from attacking on appeal the proposed factual findings and legal conclusions not objected to, and accepted by, the District Court.

This 5 day of December 2008.

DAVID W. DANIEL

United States Magistrate Judge